

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

EPLUS, INC.,

Plaintiff,

v.

PERFECT COMMERCE, INC.,
SCIQUEST, INC., LAWSON
SOFTWARE, INC., and VERIAN
TECHNOLOGIES, INC.,

Defendants.

Civil Action No. 2:09-CV-232-HCM-TEM

**DECLARATION OF RITA E. TAUTKUS IN SUPPORT OF MOTION OF
DEFENDANTS PERFECT COMMERCE, LLC, SCIQUEST, INC., AND LAWSON
SOFTWARE, INC. TO TRANSFER PROCEEDINGS OR IN THE ALTERNATIVE TO
ADOPT PRIOR MARKMAN RULING**

I, Rita E. Tautkus, hereby declare as follows:

1. I am of counsel at the law firm of Morgan, Lewis & Bockius LLP, One Market Street, Spear Street Tower, San Francisco, CA 94105, and a member in good standing of the Bar of the State of California and am admitted *pro hac vice* for the herein action. Morgan, Lewis & Bockius LLP has been retained as trial counsel for Defendants SciQuest, Inc. and Lawson Software, Inc. in the present action. I submit this declaration in support of Motion of Defendants Perfect Commerce, LLC, SciQuest, Inc. and Lawson Software, Inc. to Transfer Proceedings or in the Alternative to Adopt Prior Markman Ruling.

2. Attached hereto as Exhibit A is a true and correct copy of the Claim Construction Order issued by Judge Spencer on January 20, 2006 in Civil Action No. 3:05cv281-JRS, *ePlus, Inc. v. SAP America, Inc., et al.*

3. Attached hereto as Exhibit B is a true and correct copy of the Order issued by Judge Spencer on March 20, 2006 granting SAP's Motion for Summary Judgment of non-infringement in Civil Action No. 3:05cv281-JRS, *ePlus, Inc. v. SAP America, Inc., et al.*

4. Attached hereto as Exhibit C is a true and correct copy of the Order issued by Judge Spencer on January 19, 2007 dismissing and vacating the Orders listed in Exhibit A and Exhibit B.

5. Attached hereto as Exhibit D is the Order issued by Judge Morgan on November 10, 2005 granting a Motion to Transfer in Civil Action No. 2:05cv205, *Inline Connection Corp. v. Verizon Internet Services, Inc., et al.*

6. Attached hereto as Exhibit E is the Order issued by Judge Clark on November 7, 2008 granting the Motion to Vacate Orders on Claim Construction and Agreed terms in Civil Action No. 9:06cv160, *Cisco Systems, Inc., et al. v. Telcordia Technologies, Inc.*

I declare under the penalty of perjury that the foregoing is true and correct. Executed in
San Francisco, California, on July 31, 2009.

Rita E. Tautkus
Rita E. Tautkus

Dated: July 31, 2009

Respectfully submitted,

/s/ Stephen E. Noona

Stephen E. Noona (VSB No. 25367)
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624-3000
Facsimile: (757) 624-3169
senoona@kaufcan.com

*Counsel for Defendants Perfect Commerce, Inc.,
SciQuest, Inc. and Lawson Software, Inc.*

Daniel Johnson, Jr. (*pro hac vice* pending)
Rita E. Tautkus (*pro hac vice* pending)
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1596
Telephone: (415) 442-1000
Facsimile: (415) 442-1001
djohnson@morganlewis.com
rautkus@morganlewis.com

Robert W. Busby, Jr. (VSB No. 41312)
Bradford A. Cangro (*pro hac vice* pending)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004-2541
Telephone: (202) 739-3000
Facsimile: (202) 739-3001
rbusby@morganlewis.com
bcangro@morganlewis.com

*Counsel for Defendants SciQuest, Inc. and Lawson
Software, Inc.*

Kenneth W. Brothers (*pro hac vice* pending)
Dickstein Shapiro LLP
1835 Eye Street NW
Washington, DC 20006
Telephone: (202) 420-4128
Facsimile: (202) 420-2201
brothersk@dicksteinshapiro.com

Counsel for Defendant Perfect Commerce, LLC

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2009, I will electronically file the foregoing Declaration of Rita E. Tautkus in Support of Motion of Defendants Perfect Commerce, LLC, SciQuest, Inc., and Lawson Software, Inc. to Transfer Proceedings or in the Alternative to Adopt Prior Markman Ruling with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Gregory N. Stillman
Brent Lee VanNorman
Hunton & Williams
500 East Main Street, Suite 1000
Norfolk, VA 23510
Tel.: 757-640-5300
Fax.: 757-625-7720
gstillman@hunton.com
bvannorman@hunton.com

David M. Young
VSB No. 35997
Goodwin Procter, LLP
901 New York Avenue, N.W.
Washington, DC 20001
Tel.: 202 346-4000
Fax.: 202-346-4444
dyoung@goodwinprocter.com

OF COUNSEL:

Scott L. Robertson
Jennifer A. Albert
Christopher C. Campbell (VSB No. 36244)
Goodwin Procter, LLP
901 New York Avenue, N.W.
Washington, DC 20001
Tel.: 202 346-4000
Fax.: 202-346-4444
srobertson@goodwinprocter.com

Shirley Sperling Paley
James D. Clements
Goodwin Procter LLP
Exchange Place
53 State Street
Boston, MA 02109-2881
Tel.: 617-570-1000
Fax.: 617-523-1231
spaley@goodwinprocter.com
jclements@goodwinprocter.com

Attorneys for Plaintiff

James John Briody
Sutherland, Asbill & Brennan
1275 Penn Avenue, NW
Suite 800
Washington, DC 20004-2404
(202) 383-0100
jim.briody@sutherland.com

George E. Kostel (VSB No. 34757)
Nelson Mullins Riley & Scarborough, LLP
101 Constitution Avenue, NW Suite 900
Washington, DC 20001
Tel.: 202-712-2800
Fax.: 202-712-2862
george.kostel@nelsonmullins.com

Attorneys for Defendant Verian Technologies, Inc.

On this date, I am also hand-delivering a copy of the foregoing on:

Brent Lee VanNorman
Hunton & Williams
500 East Main Street, Suite 1000
Norfolk, VA 23510
Tel.: 757-640-5300
Fax.: 757-625-7720
gstillman@hunton.com
bvannorman@hunton.com

/s/ Stephen E. Noona

Stephen E. Noona
(VSB No. 25367)
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624-3000
Facsimile: (757) 624-3169

*Counsel for Defendants Perfect Commerce LLC,
incorrectly identified as Perfect Commerce, Inc,
SciQuest, Inc. and Lawson Software, Inc.*